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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 OAKLAND DIVISION

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14 UNITED STATES OF AMERICA,) No. CR 3-09-1122 PJH
15 Plaintiff,)
16 v.)
17 JOSE RIVERA-SANCHEZ,)
18 Defendant.)

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Trial Date
STIPULATION AND [PROPOSED] /
ORDER SETTING ~~HEARING DATE~~ AND
DOCUMENTING EXCLUSION OF TIME
UNDER THE SPEEDY TRIAL ACT

The parties appeared before the Court in this matter on May 16, 2012 for change of plea or trial setting. The defendant, JOSE RIVERA-SANCHEZ, was represented by Michael R. Berger, Esquire, and the government was represented by DAMALI A. TAYLOR, Assistant United States Attorney. The defendant was present and in custody. At the time of the hearing, the parties informed the Court that the matter will proceed to trial. The parties anticipated that approximately two weeks will be needed to conduct the trial.

Defense counsel, Mr. Berger, requested a trial date of November 5, 2012 at 8:30 a.m. Mr. Berger represented to the Court that, due to conflicting trial schedules and commitments out of the district, there is no two week period before November 5, 2012 in which he will be

1 available for trial. Moreover, Mr. Berger informed the Court that additional time is needed for
2 him to examine the evidence together with the defendant in preparation for trial. Thus, some of
3 the additional time is also needed for effective preparation of counsel. Given defense counsel's
4 unavailability, the government agreed to the trial date and had no objection to the exclusion of
5 time. The parties therefore agreed that, for continuity of counsel and in order to effectively
6 prepare the defendant for trial, time be excluded under the Speedy Trial Act between May 16,
7 2012 and November 5, 2012. The parties agreed that the ends of justice served by granting such
8 an exclusion of time outweigh the best interests of the public and the defendant in a speedy trial.
9 18 U.S.C. § 3161(h)(7)(A). The Court made findings consistent with the agreement of the
10 parties.

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12 SO STIPULATED:

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14 MELINDA HAAG
United States Attorney

15 DATED: May 17, 2012

16 _____/s/
17 DAMALI A. TAYLOR
18 Assistant United States Attorney

19 DATED: May 17, 2012

20 _____/s/
21 MICHAEL R. BERGER
22 Counsel for the Defendant

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3 [PROPOSED] ORDER

4 For the foregoing reasons, the Court HEREBY ORDERS that time is excluded from May
5 16, 2012 through November 5, 2012, at 8:30 a.m., the date currently set for trial before the
6 Honorable Phyllis J. Hamilton. The Court finds that the failure to grant the requested extension
7 would deny counsel the reasonable time necessary for effective preparation, taking into account
8 the exercise of due diligence, and that the ends of justice served by granting the requested
9 extension outweigh the best interests of the public and the defendant in a speedy trial and in the
10 prompt disposition of criminal cases. The Court further concludes that an exclusion of time from
11 May 16, 2012 through November 5, 2012, should be made under Title 18, United States Code,
12 Sections 3161(h)(7)(A) and 3161(h)(7)(B)(iv). The Court finds that the ends of justice served by
13 excluding the period from May 16, 2012 through November 5, 2012, outweigh the best interest
14 of the public and the defendant in a speedy trial. *Id.* § 3161(h)(7)(A).

15 **IT IS SO ORDERED.**

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17 Dated: May 18, 2012



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Phyllis J. HAMILTON
UNITED STATES DISTRICT JUDGE